

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4097 of 1986

Date of decision: 18-2-98

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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PRATAPSIKH DASHRATHSINH

Versus

STATE OF GUJARAT  
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Appearance:

MR IS SUPEHIA for Petitioners

Mr. Mukesh Patel for Respondents No. 1, 2 and 3

None present for other Respondents  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/02/98

## ORAL JUDGEMENT

Respondents No. 4 to 8, and 10 to 15 were ordered to be deleted by this court on 14th December, 1989. The grievance of the petitioners is that the action of the respondents to transfer armed police constables to unarmed branch and then to give promotion to the next higher post is illegal and arbitrary. The order of promotion of these persons had been challenged by the petitioners in this special civil application. Prayer has also been made for quashing and setting aside the Circular annexure-D dated 24th October, 1985.

2. This court has already decided this issue in special civil application No.6812 of 1987 decided on 15th August, 1997 that the rules of recruitment as laid down for the post of Armed Police Constable and Unarmed Police Constable do not permit any transfer of the persons from one branch to another branch. In view of the aforesaid decision of this court, the grievance made by the petitioners in this special civil application deserves to be accepted. Accordingly it is hereby ordered that the action of the respondents to transfer Armed Police Constables to Unarmed Branch is illegal and arbitrary, and further the promotion given to such persons on transfer is bad in law. However, the petitioners had deleted the names of respondents No.4 to 8 and 10 to 15, and as such their promotions cannot be quashed and set aside. Similarly, in view of the fact that promotion of substantial number of persons can not be set aside by this court for the reason of deletion of their names, and further that the promotion was given to those persons in the year 1986, i.e. about 12 years back, I do not consider it proper to quash and set aside the order of promotion of respondents No.3, 9, 16 and 17 also.

3. The special civil application is allowed. It is hereby directed that respondent No.1 shall consider the case of the petitioners for promotion to the post of Head Constable Grade II with effect from the date on which respondents No.3 to 17 were given promotion, and in case they are found suitable for promotion, then they will be entitled to all consequential benefits flowing therefrom. Rule made absolute in the aforesaid terms. No order as to costs.

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